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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,763	10/24/2000	Michel Lanquetin	GEI-078	8985

7590 04/23/2002

Bierman Muserlian and Lucas  
600 Third Avenue  
New York, NY 10016

EXAMINER
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HUI, SAN MING R

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 04/23/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Applicati n N .

09/646,763

Applicant(s)

LANQUETIN ET AL.

Examiner

San-ming Hui

Art Unit

1617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 April 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 1,3 and 5-18.

Claim(s) withdrawn from consideration: None.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

RUSSELL TRAVERS  
PRIMARY EXAMINER  
GROUP 1200

**Advisory Action**

Continuation of 2):

The proposed amendment filed April 1, 2002 raises new issues for consideration and search by the examiner. For example, the limitation "ethylcellulose (Ethocel)" in claim 11 on page 1 of the amendment received April 1, 2002 raises a new issue for consideration and search for the examiner because of the use of parenthesis.

Continuation of 5):

Applicant's remarks filed April 1, 2002 on pages 3-5 regarding the cited prior art only teaching transdermal devices and the differences between transdermal composition and the claimed topical composition have been considered but are not found persuasive as to the nonobviousness of the claimed invention because firstly, the claimed composition is intended to have a systemic delivery of the active through the skin (or dermal area) into the body, i.e., transdermal delivery of the active. Secondly, applicant asserts that transdermal compositions are made of a small reservoir fixed to a strip of plastic material. This assertion is incorrect because the description applicant made is describing a sustained-release transdermal composition, not a transdermal composition. Thirdly, the cited prior arts, when taken the teachings of the cited prior art as a whole, clearly renders the claimed topical composition herein obvious.

The claims are rejected because of the reasons of record in the previous office action (Final rejection) mailed October 23, 2001. Since the proposed amendments filed April 1, 2002 will not be entered, the rejections set forth in the previous office action

Art Unit: 1617

mailed December 5, 2001 remain. No new unanswered rebuttal argument is seen to be present herein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to San-ming Hui whose telephone number is (703) 305-1002. The examiner can normally be reached on Mon 9:00 to 1:00, Tu - Fri from 9:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minna Moezie, J.D., can be reached on (703) 308-4612. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

San-ming Hui  
April 18, 2002

  
**RUSSELL TRAVERS**  
**PRIMARY EXAMINER**  
**GROUP 1200**